

**TOWN OF DAVIE  
REGULAR MEETING  
MAY 17, 2006**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:02 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Vice-Mayor Mike Crowley, and Councilmembers Caletka, Paul and Starkey. Also attending were Acting Town Administrator Cohen, Town Attorney Monroe Kiar and Town Clerk Muniz recording the meeting.

Public Information Officer Braulio Rosa announced the dedication of a chair in memory of Dean Alexander. Mr. Alexander's son thanked Council for the recognition.

**3. PRESENTATIONS**

**3.1. Part 150 - Leigh Fisher and Associates and Dickey Consulting**

Eric Bernhardt briefly summarized findings of the Part 150 Study addressing the airport expansion issue. He advised that the FAA only approved measures intended to improve noise exposure within 65 decibels. Mr. Bernhardt added that Broward County would provide for mitigation beyond this level. He recommended that municipalities look at fee simple acquisition compatible with surrounding land use along with sound installation measures such as insulation within homes. He advised that additional workshops were planned to address questions and concerns from the public.

Councilmember Starkey asked if Mr. Bernhardt's firm had met with cargo carriers to discuss not flying after midnight. Mr. Bernhardt suggested that Council work with ANAC and indicated that his firm would work on approaching cargo carriers about mitigating noise. Councilmember Starkey stressed that Council needed to know any impacts of shifted flights over the community. She commended Leigh Fisher & Associates on their work and recommendations.

Mayor Truex asked for clarification on language requiring an "adequate supply of comparable housing" for land acquisition. Mr. Bernhardt explained that immediate communities in the area should have enough comparable housing in the same price range as their existing homes. Mayor Truex questioned the significance of the "2004-2005 base line." Mr. Bernhardt explained that as part of the EIS Study, the FAA preferred to use the last calendar year of typical operations to compare impacts over time.

**3.2. Forensic Auditor - Mayer Hoffman McCann, PC**

Stephen Nelder advised that his firm had interviewed department heads and staff about internal controls, cash controls, investments, purchases, payments, payroll and capital expenditures. Findings revealed that the system in place prior to October 2005 had a concentration of duties on individuals to request services, solicit bids and approve payments particularly in the \$15,000 and \$25,000 range. It also found that several vendors were not validated or registered publicly. Vulnerability also existed in financial reporting and the Town's expenditures and purchases. Mr. Nelder advised that recommendations included additional work be performed to include obtaining raw data from the Town's accounting system and analyzing it for unusual transactions. He added that his firm would then validate "suspect vendors" and select several major projects to verify that work was done according to contract specifications.

Councilmember Paul asked about the likelihood of recovering funds. Mr. Nelder advised that unintentional billing errors and "suspect transactions" might allow for potential returns but it was not guaranteed. Councilmember Starkey stated that any findings of criminal activities could be covered under insurance and civil action.

Councilmember Starkey voiced her concern about the absence of conflict of interest policies.

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Vice-Mayor Crowley asked whether a third or fourth phase of auditing was likely. Mr. Bernhardt advised that phase two involved investigating areas where the most potential risk of fraud was likely such as capital projects and accounts payable. He indicated that his firm was prepared to begin the next phase the following day and anticipated a three to four week timeframe.

Mayor Truex asked if there were code of conduct or ethics policy models the Town could adopt. Mr. Bernhardt responded affirmatively. Mr. Cohen recommended adding item 4.21 which was a resolution with the firm's contract for Council to vote on.

**3.3. Regional Activity Center - EDSA**

Kona Gray updated Council on the Regional Activity Center (RAC) Master Plan and summarized plans for mixed-use features and improved transit. He advised that the goal was to create a plan that was economically feasible for the Town. Mr. Gray spoke of the opportunities for growth in the different college complexes.

Mr. Gray advised that the first public workshop focused largely on transportation issues. Other goals discussed included encouraging students to remain in Davie after graduation and promoting a smart transit and common green space. He stated that the second public workshop involved more creative thinking and defining visions for the Town. Mr. Gray indicated that the next phase in the process was to prepare design concepts which would be submitted with transportation concepts.

Mayor Truex asked how this study coordinated with the 441/CRA and other studies. Mr. Gray responded that these worked together well. He advised that his firm would follow through with ongoing studies with the help of the Regional Planning Council's technical committee. Mayor Truex was happy to see references to bicycles in the planning.

Mayor Truex announced that items 6.6 and 6.7 needed to be tabled to June 7, 2006.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that item 6.2 needed to be tabled to June 21, 2006.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that items 4.3 and 6.5 had been withdrawn.

Mayor Truex advised that item 4.20 had been withdrawn and requested the petitioner to speak.

George Deeb stated that he was interested in developing the parcel and was willing to discuss options with staff. Mayor Truex asked whether this item should be tabled or withdrawn. Councilmember Caletka was in favor of the Dunkin Donuts at this site. Mr. Deeb disagreed with staff's definition of the restaurant as a fast-food facility. Mayor Truex did not feel this Dunkin Donuts would be able to comply with the Town's Code. Mayor Truex recommended the applicant to meet with staff to discuss this further.

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to table to July 5, 2006. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 4.21 needed to be added.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

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Mayor Truex advised that item 9.3 needed to be added.

Councilmember Starkey made a motion, seconded by Mayor Truex, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

**4. APPROVAL OF CONSENT AGENDA**

*Minutes*

4.1. March 29, 2006 (Regular Meeting)

4.2. April 5, 2006 (Regular Meeting)

*Resolutions*

4.3. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE FLORIDA STATE CONTRACT # 250-000-03-1 FOR THE PURCHASE OF LAPTOP COMPUTERS AWARDED TO DELL COMPUTER CORPORATION. (\$73,757.96) (tabled from May 3, 2006)

R-2006-139 4.4. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE PURCHASE OF VARIOUS FURNISHINGS FOR THE OAKES ROAD FIRE RESCUE STATION #104 FROM PRIDE INDUSTRIES, INC., OF FLORIDA. (\$40,557.93)

R-2006-140 4.5. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE FLORIDA STATE LODGE, FRATERNAL ORDER OF POLICE, INC., GENERAL EMPLOYEES BARGAINING UNIT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

R-2006-141 4.6. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT WITH AKERBLOM CONTRACTING, INC. FOR REHABILITATION OF LIFT STATION #5. (\$310,000)

4.7. **WAIVER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A WAIVER REQUEST TO THE SCENIC CORRIDOR REQUIREMENTS OF SECTION 12-282 OF THE LAND DEVELOPMENT CODE FOR THE WESTRIDGE PROJECT LOCATED AT 4450 FLAMINGO ROAD, PURSUANT TO SECTION 12-282 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF DAVIE, FLORIDA, CONTAINING AN EFFECTIVE DATE.

R-2006-142 4.8. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO SIGN THE CONTRACT WITH MATVEST, INC. D/B/A BERMEX, INC. FOR WATER METER READING SERVICES. (\$59,929)

R-2006-143 4.9. **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH R&S INTEGRATED PRODUCTS AND SERVICES, INC. FOR THE CREATION OF AN AGENDA AUTOMATION WORKFLOW SOFTWARE SOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE. (\$25,910 plus maintenance)

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- 4.10. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE  
R-2006-144 BIDS FOR ATHLETIC EQUIPMENT. (\$70,000/year)
- 4.11. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING  
R-2006-145 THE MAYOR TO ACCEPT THE BID RECOMMENDATION FOR THE PAVILION  
FOR THE EAST DAVIE NATURE PARK. (Playspace Services, Inc. - \$19,563.37)
- 4.12. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA APPROVING THE  
R-2006-146 FLORIDA STATE CONTRACT BID AWARD FOR BLEACHERS (CONTRACT  
NUMBER 650-001-04-1). (not budgeted - \$57,570.86; Town to be fully reimbursed by  
FEMA and Town insurer)
- 4.13. **EASEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2006-147 AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO APPROVE A  
GRANT OF EASEMENT FOR THE REGENCY PLAT; TO ACKNOWLEDGE SUCH  
APPROVAL BY AFFIXING THE SIGNATURES AND THE TOWN SEAL TO SAID  
EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.14. **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING  
THE PLAT KNOWN AS "WESTRIDGE OAKS" AND AUTHORIZING THE  
MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY  
AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SAID PLAT;  
AND PROVIDING AN EFFECTIVE DATE. (P 5-4-05, Westridge Oaks, 4450 South  
Flamingo Road) *Planning and Zoning Board recommended denial*
- 4.15. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2006-148 FLORIDA, AUTHORIZING THE TENTH AMENDMENT TO THE INTERLOCAL  
AGREEMENT WITH BROWARD COUNTY FOR SOLID WASTE DISPOSAL  
SERVICE, WHICH INTERLOCAL AGREEMENT IS DATED FOR CONVENIENCE  
NOVEMBER 25, 1986, BY AND BETWEEN BROWARD COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF FLORIDA, BY AND THROUGH ITS BOARD  
OF COUNTY COMMISSIONERS AND THE MUNICIPALITIES WHO ARE THE  
PARTIES TO THE INTERLOCAL AGREEMENT.
- 4.16. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2006-149 FLORIDA, APPROVING AND EXECUTING THE 2006 AMENDMENT TO  
INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN  
OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE  
PROCEEDS FROM THE BROWARD COUNTY FIFTH CENT ADDITIONAL  
LOCAL OPTION GAS TAX ON MOTOR FUEL FOR TRANSIT, AND PROVIDING  
FOR AN EFFECTIVE DATE.

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- 4.17. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND EXECUTING THE 2006 AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.
- R-2006-150
- 4.18. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND EXECUTING THE 2006 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE, PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS FROM THE BROWARD COUNTY "ADDITIONAL" LOCAL OPTION GAS TAX ON MOTOR FUEL ORDINANCE, AND PROVIDING FOR AN EFFECTIVE DATE.
- R-2006-151
- 4.19. **MITIGATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIENS IN CASE NO. 05-862 FROM \$5000.00 IN AMOUNT TO \$1635.98, AND PROVIDING AN EFFECTIVE DATE.

*Quasi-Judicial Consent Agenda*

4.20. **WITHDRAWN BY STAFF**

SP 10-2-04, Dunkin Donuts Restaurant, 3884 SW 64 Avenue (B-2) (tabled from April 5, 2006) *Site Plan Committee recommended denial because the Committee was of the opinion that the Town would never accomplish what it expected of the downtown if it continued to approve parcel-by-parcel items which did not meet the intent of the Western Theme. The Committee decided on an addendum to its recommendation that the following comments be implemented into the site plan should the Council decide to reverse the Committee's recommendation to deny: 1) address the covered walkway on the north side of the building to be extended the entire length and that the east side of the building was totally barren; 2) the pavers at the corner are to match the current pattern; 3) look at the handicapped space location do to slope into the building; 4) bike racks are missing; 5) the Committee did not like the signage colors; and 6) parking arrangement has a dead end, no outlet parking area which does not work*

*Items to be added*

- 4.21. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT WITH THE FIRM OF MAYER, HOFFMAN, MCCANN, PC TO PROVIDE FORENSIC AUDITING SERVICES AND PROVIDING AN EFFECTIVE DATE. (not to exceed \$50,000)
- R-2006-152

Councilmember Caletka pulled items 4.1, 4.7, 4.14, and 4.15. Vice-Mayor Crowley pulled items 4.5 and 4.19. Councilmember Paul pulled items 4.13. Mayor Truex also pulled item 4.21. Mr. Kiar requested to pull 4.2 and 4.6.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to approve the Consent Agenda minus items 4.1, 4.2, 4.5, 4.6, 4.7, 4.13, 4.14, 4.15, 4.19 and 4.21. In a voice vote, all voted in favor. (Motion carried 5-0)

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**5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.21 Councilmember Starkey asked for clarification about services to be subcontracted from CBIZ. An unidentified man, representing Mayer Hoffman McCann, explained that CBIZ was a publicly held business services company which was engaged as part of a two-tiered service arrangement.

Mr. Kiar asked about the timeframe expected. The man advised that each phase would involve its own timeframe. Mr. Kiar stated he had limited time to review the contract but stated it appeared to be in order.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.7, 4.14, 6.3, and 6.4

Later in the meeting, Mr. Kiar read the rules of evidence and swore in the witnesses. Deputy Planning and Zoning Manager Marcie Nolan summarized the staff reports.

Dennis Mele, representing the applicant, reviewed the site plan illustration. Mayor Truex asked if Mr. Mele needed additional variances besides the ones currently requested. Mr. Mele responded in the negative. Regarding the scenic corridor waiver, Mr. Mele advised that a soft edge would be incorporated to create a more diverse view from Flamingo Road. He stated that there was another version of the plan that would eliminate the need for item 4.7 and explained that this plan pushed parking further east to open up a 100-ft wide strip of green space along Flamingo Road. Mr. Mele pointed out constraints as far as where a wall could be placed and explained features proposed for the office building. He advised that the home prices ranged from \$750,000 to just over \$1 million and was confident they would be sold. Mr. Mele explained the features proposed for green areas alongside the scenic corridor and advised that the prohibited list would also include mortuaries. He added that in response to requests from the equestrian community, trails had been incorporated along with a crossing and traffic signal. Mr. Mele advised that recommendations and changes suggested that night would be incorporated on the updated site plan.

Mayor Truex asked if sexually oriented businesses and gambling would be restricted. Mr. Mele responded in the affirmative.

Mr. Mele introduced Terry Stiles of Stiles Corporation. Mr. Stiles spoke of his firm's support of Davie throughout the years.

Mr. Kiar opened the public hearing portion of the meeting.

Philip Busey, 837 SW 120 Way, opposed the height of the project and spoke against commercial development on Flamingo Road.

Christian Fuxa, 11958 Green Oak Drive, presented photographs of his home and spoke against the project's impacts to his neighborhood. He felt the plans illustrated were not an accurate reflection of the area.

Ed Hogan, president of the Laurel Oaks Homeowner's Association, opposed the project's size.

Claudette Bonville, 11872 Oak Ridge Drive, commended Stiles on the presentation. She spoke of ongoing meetings with the developer and of issues she and the residents wanted to see corrected. Ms. Bonville was in favor of four-pod coach homes being built.

Davi Pohan-Ferrari, 11890 Green Oak Drive, spoke of a previous rendering that showed the project's drainage going into the Laurel Oaks' canal system and questioned whether this concern had been addressed.

Sara Scheiman, 11919 Oak Lane, felt the Planning and Zoning Board's decision to deny should be respected. She opposed the height of the project and felt deceived by the developer.

David Scheiman, 11919 Oak Lane, opposed the project.

Val Sellati, 11938 Acorn Drive, opposed the project.

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Anita Sellati, 11938 Acorn Drive, opposed the project.

Bruce Yasuicochi, 11847 Green Oak Drive, suggested that any decision be deferred until all outstanding concerns were addressed.

Gabriel Fleischman, 11918 Oak Ridge Drive, was concerned about the waivers being requested and opposed the height of the project.

Scott McLaughlin, representing the Davie Economic Development Council (EDC), read a letter from the EDC supporting the project.

David Black, 2550 SW 105 Terrace, spoke in favor of the project.

Matt Becker, 7250 Peppertree Circle, spoke in favor of the project.

Joyce Steward, 10850 SW 25 Street, spoke in favor of the project.

Linda Greck, 3121 SW 116 Avenue, opposed the project due to concerns about the scenic corridor and wanted to see trail crossings installed alongside Linear Park.

Barry Webber, 4430 SW 64 Avenue, advised that the property was owned by private individuals who were paying commercial property taxes. He stated that the property needed to be developed and requested Council's approval.

Sergio Rodriguez, 1193 SW Acorn Drive, supported the concepts but wanted additional work done on 121st Terrace.

April Kauffman, 11902 Silver Oak Drive, opposed the project and its impact on 121st Terrace. She spoke in favor of coach homes.

Mr. Mele advised that the project was draining into the C-11 basin and not the Laurel Oaks canal. He submitted additional letters of support along with photographs illustrating the existing buffer. Mr. Mele addressed other concerns raised by residents and indicated that the applicant was willing to continue working with the neighbors. He agreed to incorporate changes requested by Council.

Mr. Kiar closed the public hearing and turned this portion of the meeting over to Council for disclosures.

Councilmember Paul had spoken with Mrs. Moersch, Mr. Stiles, Mr. Mele, staff and residents. Councilmember Starkey had spoken with Mrs. Moersch, residents, members of Stiles Corporation and Mr. Mele. Mayor Truex had spoken with the owner and the applicant. Vice-Mayor Crowley had spoken with Stiles Corporation staff, their consultants, and the property owner and had received emails from residents of Laurel Oaks. Councilmember Caletka advised that he had met with Mr. Mele and officials from Stiles Corporation, had spoken with the property owner, and had received emails.

Mr. Kiar clarified that Mr. Mele would stipulate to the erection of wall if Council requested. Mr. Mele confirmed and "along the west side of 121st along the eastern border of our property, we can put a six foot wall adjacent to our townhomes to provide the buffer."

Councilmember Starkey spoke of requests for landscaping and breaks along the wall. Mr. Mele agreed to install a six-foot wall and agreed to landscaping. Councilmember Starkey was pleased that the scenic corridor would be maintained but still wanted the meandering trail and sidewalks on the original plan. She requested brick pavers at the Flamingo Road entrance and the pedestrian crosswalks. Mr. Mele agreed with this request. Councilmember Starkey also requested that the horse trail recommendations be accommodated along the linear park.

Mayor Truex was opposed the project due to the number of residential units proposed.

Councilmember Paul stated that she was in favor of the plan that retained the integrity of the scenic corridor. She was in favor of keeping the right turn at 121st Street but was concerned about the number of entrances to the property on Flamingo Road. Councilmember Paul was not in favor of flex units at this property when they were needed in other areas. She felt one entrance on Flamingo Road and another on Orange Drive would be sufficient.

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Councilmember Caletka asked how tall the wall on the east side would be. Mr. Mele responded six-feet. Councilmember Caletka was not in favor of installing a wall. He spoke in favor of the project and felt the Town could use the commercial tax base and thanked Stiles Corporation for being accommodating.

Vice-Mayor Crowley was pleased that the landscape buffer would be included. He asked if the developer could make accommodations for reducing truck traffic along 121st Terrace. Vice-Mayor Crowley suggested landscaping along the east side of 121st Terrace as an additional buffer. He agreed with the engineer's opinion to have a left turn lane on Orange Drive, but suggested a right turn off 121st Terrace crossing over to Griffin Road. Mayor Truex requested the engineer's opinion on this suggestion. Town Engineer Larry Peters had no objections to this.

Councilmember Starkey suggested gated fencing with landscaping along 121st Terrace to separate the office complex from the residential.

4.7 Mr. Mele announced he would withdraw this item.

4.14 Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to table to June 7, 2006. In a voice vote, all voted in favor. (Motion carried 5-0)

6.3 Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve subject to site plan approval. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 3-2)

#### **6.4 Variance # 1**

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve subject to site plan approval. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 3-2)

#### **Variance # 2**

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve subject to site plan approval. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 4-1)

#### **Variance # 3**

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve subject to site plan approval. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 3-2)

4.5 Vice-Mayor Crowley stated his previous opposition to the consolidation of non-represented employees into the union.

Mayor Truex asked Mr. Cohen how much control Council could exert on the union's position. Judy Nesbitt addressed Council on the history of this issue and spoke of the employees' desire for equality and fairness. Mr. Cohen did not recommend rejecting the contract.



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Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, with Vice-Mayor Crowley dissenting, all voted in favor. (Motion carried 4-1)

4.1 Councilmember Caletka made a motion, seconded by Mayor Truex, to table to June 7, 2006. In a voice vote, all voted in favor. (Motion carried 5-0)

4.2 Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve subject to corrections as recommended by Mr. Kiar. In a voice vote, all voted in favor. (Motion carried 5-0)

4.6 Mr. Kiar spoke of revisions that needed to be made to the contract.

Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to approve subject to additional language being added as requested by Mr. Kiar. In a voice vote, all voted in favor. (Motion carried 5-0)

4.13 Councilmember Paul was concerned about use of the path that residents used for the park. Bill Laystrom, representing the applicant, explained that he was requesting approval for an underground pipe.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.15 Councilmember Caletka made a motion, seconded by Councilmember Paul, to deny.

Mayor Truex recommended passing a resolution reflecting the Town's recommendations. Councilmember Caletka agreed and withdrew his motion to deny,

Councilmember Caletka made a motion, seconded by Councilmember Paul, to approve the Town's resolution reflecting the Council's wishes. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey advised that the new president of the League of Cities was Laurie Mosley of Miramar who would be making the relevant appointment.

4.19 Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to deny the mitigation amount and make the applicant pay the full price of the violation. In a voice vote, all voted in favor. (Motion carried 5-0)

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**6. PUBLIC HEARING**

*Ordinance - Second and Final Reading*

- 6.1. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,  
2006-14 APPROVING REZONING PETITION ZB 8-2-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 8-2-04, Lorson One, LLC/POA, Acecon Construction Corp., 1275 SW 130 Avenue) (tabled from April 19, 2006) *Planning and Zoning Board recommended denial for the following reasons: that the proposed change will adversely affect living conditions in the neighborhood. The Board having received substantial credible evidence from those testifying determines that the proposed change will adversely affect the living conditions in this surrounding neighborhood; Subsection (e), the Board having received substantial credible evidence has determined that the proposed change will create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or otherwise affect the public safety; Subsection (i), the Board having received substantial credible evidence from those testifying believes that there is not substantial reasons why the property cannot be used in accord with the existing zoning; therefore, the Board respectfully moves that the rezoning be denied {Approved on First Reading April 19, 2006 - all voted in favor, with Councilmembers Caletka and Paul dissenting}*

Earlier in the meeting, Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Elizabeth Olafson, 13301 SW 16 Court, opposed the project due to traffic concerns and provided photographs depicting problems in her neighborhood.

Bob Palestrant, 13151 SW 15 Court, read the Town's mission statement, which he felt should reflect Council's goals.

Dennis Mele, representing the applicant, read the traffic criteria.

Mayor Truex closed the public hearing.

Mayor Truex stated that the applicants were entitled to what they were requesting.

Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve subject to site plan approval conditions.

Councilmember Caletka stated his public safety concerns remained the same as in previous discussions. Councilmember Starkey felt the road improvements proposed would make the area safer.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - no; Councilmember Paul - no; Councilmember Starkey - yes. (Motion carried 3-2)

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*Ordinances - First Reading (Second and final reading to be held June 7, 2006)*

- 6.2. **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 5-1-05 LONG KEY - FLAMINGO PARK, VACATING AND DEDICATING RIGHT-OF-WAYS AS SHOWN ON THE PLAT OF "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1", AS RECORDED IN PLAT BOOK 2, PAGES 17, OF THE PUBLIC RECORDS OF BROWARD COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 5-1-05, Long Key-Flamingo Park, southwest corner of Flamingo Road and SW 36 Street) (tabled from April 19, 2006) *Planning and Zoning Board recommended approval contingent upon meetings with the resident and the retention for Bellsouth, if necessary*

This item was tabled earlier in the meeting.

- 6.3. **REZONING/FLEX UNITS** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION FX 7-1-05 WESTRIDGE OAKS, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: AG, AGRICULTURAL DISTRICT; TO: B-2, COMMUNITY BUSINESS DISTRICT, R-1, ESTATE DWELLING DISTRICT, AND RM-5, MULTI-FAMILY LOW MEDIUM DWELLING DISTRICT THROUGH THE ALLOCATION OF 44 RESIDENTIAL FLEXIBILITY UNITS IN ACCORDANCE WITH THE ADMINISTRATIVE RULES DOCUMENT OF THE BROWARD COUNTY LAND USE PLAN; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 7-6-05 and FX 7-1-05, Stiles Development Company/Moersch, northeast corner of Flamingo Road and Orange Drive *Planning and Zoning Board recommended denial*

This item was approved earlier in the meeting.

*Quasi Judicial Items*

- 6.4. **VARIANCE** - V 11-3-05, Stiles Development Company/Moersch, northeast corner of Flamingo Road and Orange Drive (AG) (to increase the maximum building height from 35 feet to 50 feet; to increase the maximum building size from 40,000 square feet to 60,000 square feet; to increase the maximum total building area from 100,000 square feet to 119,000; to allow the required 10 foot wide curbed medians for head-to-head parking to be redistributed throughout the center) *Planning and Zoning Board recommended denial*

This item was approved earlier in the meeting.

- 6.5. **VARIANCE** - V 2-4-06, Clarke, 14450 SW 23 Street (R-1) (to reduce the minimum west side of the property from 25 feet to 0 feet so that an exiting carport additional may remain and to reduce the minimum on the east side of the property from 25 feet to 19.96 feet so that an existing screened patio may remain) *Planning and Zoning Board recommended denial*

This item was withdrawn earlier in the meeting.

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*Items to be tabled*

**6.6. PLANNING AND ZONING BOARD TABLED TO MAY 10, 2006; COUNCIL CAN TABLE TO JUNE 7, 2006**

VARIANCE - V 2-1-06, Hollingsbrook and Mather/O'Connor, 2273 SW 132 Way

This item was tabled earlier in the meeting.

**6.7. PLANNING AND ZONING BOARD TABLED TO MAY 10, 2006; COUNCIL CAN TABLE TO JUNE 7, 2006**

VARIANCE - V 2-2-06, Hollingsbrook and Mather/Rousseau, 2461 SW 131 Terrace

This item was tabled earlier in the meeting.

**7. APPOINTMENTS**

**7.1. Mayor Truex**

7.1.1. Airport/Transportation Advisory Board (one exclusive appointment - term expires December 2006)

No appointment was made.

7.1.2. Agricultural Advisory Board (one exclusive appointment - term expires April 2008) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

7.1.3. Open Space Advisory Committee (one exclusive appointment - term expires April 2008)

No appointment was made.

7.1.4. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

7.1.5. Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

7.1.6. Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood.)

No appointments were made.

**7.2. Vice-Mayor Crowley**

7.2.1. Budget Advisory Committee (one exclusive appointment - term expires April 2008) (members shall have experience in a financial related occupation, or similar skills)

Vice-Mayor Crowley appointed David Oakes.

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- 7.2.2. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.2.3. Planning and Zoning Board/Local Planning Agency (one exclusive nomination - term May 24, 2006 to May 22, 2007) (member must be a resident and qualified voter; **nomination requires Council approval**)

Vice-Mayor Crowley appointed Scott McLaughlin. In a voice vote, all voted in favor. (Motion carried 5-0)

- 7.2.4. Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

7.3. Councilmember Caletka

- 7.3.1. Airport/Transportation Advisory Board (one exclusive appointment - term expires December 2006)

No appointment was made.

- 7.3.2. Open Space Advisory Committee (one exclusive appointment - term expires April 2008)

No appointment was made.

- 7.3.3. Parks and Recreation Advisory Board (two exclusive appointments - terms expire April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Councilmember Caletka appointed Marie Etzler.

- 7.3.4. Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

Councilmember Caletka appointed Yvonne Siegrist.

- 7.3.5. Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

7.4. Councilmember Starkey

- 7.4.1. Open Space Advisory Committee (one exclusive appointment - term expires April 2008)

Councilmember Starkey appointed Casey Lee.

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- 7.4.2. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.4.3. Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

Councilmember Starkey appointed Margie Maine and Alice Harrington.

- 7.5. Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

**8. OLD BUSINESS**

- 8.1. Noise from Seminole Hard Rock Casino - Councilmember Caletka

Earlier in the meeting, Mr. Kiar summarized the legal research completed on this item. His first recommendation was to prepare an interlocal agreement with the Seminole Tribe to draft criteria to mitigate the noise problem. He advised that the Attorney General's interpretation of Florida Statute 285.16 meant that the Broward Sheriff's Office (BSO) had jurisdiction over the enforcement of the State's criminal laws within the reservation. Mr. Kiar stated the ongoing noise problem from the Seminole resort could be considered a public nuisance. He recommended that the Town meet with the BSO to enforce this Statute if efforts to establish an interlocal agreement with the Tribe were unsuccessful. Mr. Kiar's third recommendation was to have his office prepare a *writ of mandamus* to be enforced against individuals or companies causing the on-going noise problem.

Councilmember Paul asked if Mr. Kiar had contacted BSO on this issue. Mr. Kiar responded in the negative and advised that his office was awaiting direction from Council. Councilmember Paul asked if Mr. Kiar had consulted with the Justice Department or with the Bureau of Indian Affairs. Mr. Kiar advised that he had not consulted these agencies but would be willing to do so.

Councilmember Caletka referred to a previous meeting between Councilmember Paul and officials from the Seminole Tribe. He felt that entering into an interlocal agreement with the Seminole Tribe in order to enforce the Town's Code and the second recommendation to meet with the BSO were unrealistic. Councilmember Caletka indicated that the best option was for the Town to pursue a *writ of mandamus*.

Councilmember Paul stated that substantial research was necessary involving police reports and the sound study. She requested that the mayor pursue placing this item on the agenda of the Seminole Tribal Council meeting. Councilmember Paul discussed an offensive caricature she had received from an individual who disagreed with her efforts on this issue.

Councilmember Starkey was in favor of writing a formal letter of intent to meet with the Tribal Council and advising Hollywood, Dania and BSO of the request. She felt that if the Tribal Council could not find a suitable time to meet Town officials on their agenda, then step two should involve a formal letter from Mr. Kiar to request enforcement against the noise nuisance.

Vice-Mayor Crowley spoke of complaints he had received about this issue and felt action was needed immediately to send a strong message from the Town. Mayor Truex suggested that staff contact

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the Tribe about their willingness to meet with him, along with preparing documentation outlining the Town's position.

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to concurrently pursue Mr. Kiar's recommendations one and two then start preparing for recommendation three. In a voice vote, with Councilmember Paul being opposed, all voted in favor. (Motion carried 4-1)

Karen Stenzel-Nowicki, 5480 SW 55 Avenue, voiced her views about this issue and felt the Town was in a position to set a precedent in the way it addressed this problem with the Native American community. She spoke of the extensive documentation and research done on this issue over the past six years and requested that the Town move forward with the *writ of mandamus* expeditiously. Ms. Stenzel-Nowicki asked that she be contacted on the Town's efforts.

#### **8.2. Green Bus Route - Councilmember Caletka**

Councilmember Caletka voiced his concerns about the level of complaints about this service and wanted assurance that a higher quality of service would be maintained. The president of the green bus route advised that he hoped that most of these problems had been addressed and corrected. He indicated that a meeting was scheduled with Town Clerk Muniz on May 19th and he hoped to receive input, as he wanted to solve the problems.

Mayor Truex felt it was possible that some of the complaints had been unfair, as they could not be verified.

## **9. NEW BUSINESS**

#### **9.1. School Board Site Selection**

Town Clerk Muniz advised that he and Ms. Nolan had attended a meeting on April 20th at the School Board to discuss a site at Flamingo Road and Sheridan Street and another site at South Post Road and SW 36th Street. He stated that staff was seeking the Town's position on which site was preferred.

Vice-Mayor Crowley was in support of the site at Sheridan Street. Councilmember Starkey agreed.

Councilmember Starkey made a motion, seconded by Mayor Truex, to send a letter to the School Board recommending the Sheridan Street/Flamingo Road site, and if time permitted, to pass a resolution that depicted the population of students in Davie who would be served. In a voice vote, all voted in favor. (Motion carried 5-0)

#### **9.2. Metropolitan Planning Organization Review - Councilmember Paul**

Councilmember Paul summarized the discussion at the recent MPO meeting and advised that the vote was 13 to 6 in favor of recommending a one-cent transportation tax. She anticipated that this item would be heard by the Broward County Commission and recommended that a letter be sent to the Commission stating the Town's position on the one-cent tax. Council was not in favor of this new tax.

#### **9.3. Recommended Changes to Broward County's Land Use Plan, Article 8**

This item was not discussed.

## **10. MAYOR/COUNCILMEMBER'S COMMENTS**

### **VICE-MAYOR CROWLEY**

**GOLF CARTS.** Vice-Mayor Crowley requested that golf carts be provided for the Open Space Advisory Committee's parks tour. Council had no objection to this request.

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**COUNCILMEMBER STARKEY**

**EVERGLADES TOUR.** Councilmember Starkey summarized the results of the Everglades tour.

**HURRICANES.** Councilmember Starkey summarized the Hurricane Preparedness Committee's findings. She also spoke of the new generator ordinance.

**COUNCILMEMBER CALETKA**

**BROADVIEW PARK.** Councilmember Caletka advised he was still waiting for numbers on the Broadview Park issue.

**BULK PICKUP.** Councilmember Caletka stated he was working with staff on bulk pickup dos and don'ts and requested that the Town distribute an informational brochure to residents on the east side.

**11. TOWN ADMINISTRATOR'S COMMENTS**

No comments were made.

**12. TOWN ATTORNEY'S COMMENTS**

No comments were made.

**13. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 12:52 p.m.

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk